

Message Text

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ORIGIN EB-04

INFO OCT-01 EA-06 ISO-00 SS-14 INR-05 L-01 PRS-01
SSO-00 INRE-00 /032 R

DRAFTED BY EB/TCA/MA:CTAYLOR:CEK
APPROVED BY EB/TCA/MA:CTAYLOR
EA/J:SECTION

-----109055 192304Z /61

O 192136Z AUG 77
FM SECSTATE WASHDC
TO AMEMBASSY TOKYO IMMEDIATE

C O N F I D E N T I A L STATE 198021

STADIS/////////////////
LIMDIS

E.O. 11652: GDS

TAGS: EWWT, JA

SUBJECT: FMC MALPRACTICE INVESTIGATION IN THE PACIFIC TRADE

REF: TOKYO 12617

1. FOLLOWING IS TEXT OF FEDERAL MARITIME COMMISSION (FMC)
PRESS RELEASE ON SONY SETTLEMENT ISSUED AUGUST 18:

QUOTE-KARL E. BAKKE, CHAIRMAN OF THE FEDERAL MARITIME
COMMISSION (FMC), TODAY ANNOUNCED A \$340,000 CIVIL SETTLE-
MENT WITH SONY CORPORATION (SONY) AND ITS UNITED STATES
SUBSIDIARY, SONY CORPORATION OF AMERICA (SONAM), WITH
RESPECT TO CHARGES OF CIVIL VIOLATIONS OF SECTION 16,
INITIAL PARAGRAPH, OF THE SHIPPING ACT OF 1916 DURING THE
PERIOD FROM AUGUST 18, 1972 THROUGH SEPTEMBER 29, 1976.
THE ALLEGED VIOLATIONS INVOLVED THE RECEIPT BY SONY AND
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SONAM OF REBATES FROM OCEAN CARRIERS IN CONNECTION WITH
THE SHIPMENT OF TELEVISION AND OTHER ELECTRONIC EQUIPMENT
FROM JAPAN TO THE UNITED STATES. THE SETTLEMENT AMOUNT WAS
PAID TODAY UPON THE EXECUTION OF THE SETTLEMENT AGREEMENT.

IN THE COURSE OF THE COMMISSION'S INVESTIGATION OF
EXTENSIVE REBATING PRACTICES IN THE U.S. OCEAN TRADES, SONY

AND SONAM WERE AMONG A NUMBER OF SHIPPERS CONTACTED. THEY

AGREED TO COOPERATE AND TO MAKE FULL DISCLOSURES TO THE COMMISSION. THEY HAD UNDERTAKEN AN INTENSIVE AUDIT OF THEIR OPERATIONS OVERSEAS WHICH THEY DISCLOSED TO THE FMC IN DETAIL.

WHILE BAKKE WAS IN TOKYO LAST WEEK ON OTHER OFFICIAL MATTERS, HE DISCUSSED THIS SETTLEMENT WITH REPRESENTATIVES OF SONY AND RETURNED TO WASHINGTON WITH THEIR SIGNATURE ON THE AGREEMENT. TODAY, BAKKE STATED, "I BELIEVE THIS AGREEMENT TO BE FAIR TO THE UNITED STATES AND TO THE PARTIES CONCERNED AND I AM PLEASED TO HAVE HAD THE OPPORTUNITY TO PERSONALLY BRING IT INTO BEING."

UNDER THE SHIPPING ACT, ALL COMMON CARRIERS IN THE U.S. OCEAN TRADE, WHETHER U.S. OR FOREIGN, MUST FILE WITH THE COMMISSION AND PUBLISH A TARIFF SETTING FORTH THEIR RATES FOR TRANSPORTING OCEAN CARGO IN THE FOREIGN TRADE OF THE UNITED STATES. IT IS A CIVIL VIOLATION OF THE ACT FOR A SHIPPER TO ACCEPT FREIGHT RATES FROM OCEAN CARRIERS WHICH DEPART FROM THOSE PUBLISHED RATES.

AS AN INTEGRAL PART OF THIS SETTLEMENT, IN ADDITION TO THE MONETARY PAYMENT, SONY AND SONAM HAVE AGREED TO MAINTAIN AND MAKE AVAILABLE TO THE COMMISSION THROUGH CONFIDENTIAL

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AUGUST 31, 1980, ALL DOCUMENTS AND AUDIT TABULATIONS PERTAINING TO THE CIVIL VIOLATIONS WITH WHICH THEY WERE CHARGED AND TO INSTITUTE NEW PROCEDURES AND PERIODIC AUDITS TO SAFEGUARD AGAINST RECURRENCE OF SUCH ALLEGED VIOLATIONS BY THEIR AGENTS AND REPRESENTATIVES. UPON REQUEST OF THE FMC, SPECIFIED DOCUMENTS WILL BE RETAINED UNTIL AUGUST 31, 1982. SONY AND SONAM WILL FILE SEMI-ANNUAL COMPLIANCE REPORTS WITH THE COMMISSION REGARDING THESE UNDERTAKINGS.

THIS SETTLEMENT IS A PART OF THE COMMISSION'S DRIVE TO END REBATING IN THE OCEAN TRADE OF THE UNITED STATES. ENFORCEMENT ACTIONS AGAINST OTHER CARRIERS AND SHIPPERS, BOTH FOREIGN AND U.S., ARE EXPECTED TO FOLLOW SHORTLY. UNQUOTE.

2. TEXT OF THIS PRESS RELEASE WAS WORKED OUT JOINTLY BETWEEN FMC GENERAL COUNSEL AND SONY OFFICIALS, WITH AIM OF AVOIDING AROUSING JAPANESE SENSITIVITIES DESCRIBED REFTEL OR PUTTING SONY IN AWKWARD POSITION. HOWEVER, IF PRESS RELEASE SHOULD STIMULATE ANY INQUIRIES REGARDING FMC INVESTIGATION OF REBATING BY JAPANESE SHIPPING

LINES, EMBASSY MAY RESPOND THAT FMC HAS NO PLANS NOW TO SEND INVESTIGATIVE TEAM TO JAPAN. EMBASSY MAY ALSO WISH TO POINT OUT THAT FMC'S REBATING INVESTIGATION IS

DIRECTED AT ALL U.S. TRADES, NOT JUST U.S.-JAPAN TRADES. FYI ONLY. FMC INFORMS US STATUS OF REBATING INVESTIGATION AS IT RELATES TO JAPAN IS AS FOLLOWS: FMC BUREAU OF ENFORCEMENT HAS SENT LETTERS TO CARRIERS OFFERING THEM OPPORTUNITY TO MAKE VOLUNTARY DISCLOSURES. TO DATE, THERE HAVE BEEN NO RESPONSES TO THESE LETTERS, AND FMC HAS TAKEN NO FOLLOW-UP ACTION. END FYI.

3. FYI/STADIS/LIMDIS. DEPARTMENT AWARE THAT FMC HAS BEEN ENGAGED IN DISCUSSIONS WITH JAPANESE MINISTRY OF CONFIDENTIAL

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TRANSPORT OFFICIALS REGARDING REBATING INVESTIGATION AND POSSIBLE RESOLUTIONS OF ASPECTS WHICH AFFECT GOJ AND JAPANESE SHIPOWNERS. HOWEVER, CHANGE OF ADMINISTRATION AT FMC IS IMMINENT, WITH NEW CHAIRMAN, RICHARD DASCHBACK, DUE TO BE SWORN IN DURING WEEK OF AUGUST 22. ONCE NEW FMC ADMINISTRATION IN PLACE, DEPARTMENT WILL DISCUSS JAPANESE ASPECTS OF REBATING INVESTIGATION WITH NEW FMC CHAIRMAN, WITH AIM OF SEEING THAT MATTER IS HANDLED IN WAYS LEAST LIKELY TO GIVE OFFENSE TO GOJ. END FYI/STADIS/LIMDIS. VANCE

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRADE, POLITICAL SETTLEMENT, PRESS COMMENTS, INVESTIGATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 19-Aug-1977 12:00:00 am
Decaption Date: 22 May 2009
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE198021
Document Source: CORE
Document Unique ID: 00
Drafter: CTAYLOR:CEK
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770300-0907
Format: TEL
From: STATE
Handling Restrictions:
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770842/aaaabjls.tel
Line Count: 146
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 61cc8457-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: LIMDIS, STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: LIMDIS, STADIS
Reference: 77 TOKYO 12617
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 17-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1544386
Secure: OPEN
Status: NATIVE
Subject: FMC MALPRACTICE INVESTIGATION IN THE PACIFIC TRADE
TAGS: EWWT, JA, FMC, SONY, SEALAND
To: TOKYO
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/61cc8457-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009